

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

UNITED STATES OF AMERICA

V

CIVIL ACTION NO.

**\$148,967.00 IN U.S. CURRENCY,
ET AL.,**

1:12-CV-0843-WSD

Defendant

and

**SUNRISE ENTERPRISES, INC.,
d/b/a MOUNTAINVIEW PHARMACY,
and UKO UKOH,**

Claimants

UNOPPOSED MOTION TO STAY FORFEITURE CASE

COME NOW SUNRISE ENTERPRISES, INC. d/b/a MOUNTAINVIEW PHARMACY and UKO UKOH, Claimants herein, by and through undersigned counsel and file this their Motion to Stay the above-referenced Forfeiture Case; and, in support thereof, shows as follows:

1. This is a forfeiture case in which Claimant, individually; and, as the owner of Sunrise Enterprises, Inc., d/b/a Mountainview Pharmacy, is asserting ownership of the Defendant property.
2. Claimant Uko Ukoh is presently charged in a related criminal matter in the Superior Court of DeKalb County, Indictment No. 11-CR-5970.

3. The Government does not oppose this motion and has agreed to a stay of the proceedings, including a stay of filing an Answer.

4. Upon information and belief, should the forfeiture matter proceed through discovery, Plaintiff would seek to question Claimants about matters related to the forfeiture proceeding which also deal with the related criminal case and will cause Claimants to invoke their Fifth Amendment right against self-incrimination.

5. 18 USC §981(g)(2) provides that:

Upon motion of claimant, the court shall stay the civil forfeiture with respect to that claimant if the court determines that –

- (A) the claimant is the subject of a related criminal investigation or case;
- (B) the claimant has standing to assert a claim in the civil forfeiture proceedings; and
- (C) continuation of the forfeiture proceeding will burden the right of the claimant against self-incrimination in the related investigation or case.

6. Serious detrimental consequences in this litigation may result from Claimant Uko Ukoh's claim of his Fifth Amendment privilege, including the possibility of being unable to respond to a motion or motions for summary judgment and the possibility of adverse inferences being drawn from his lawful claim of Fifth Amendment protections.

WHEREFORE, Claimants request that this Court stay this forfeiture proceeding, including stay of filing the Answer.

Respectfully submitted,

s/Bruce S. Harvey
LAW OFFICE OF BRUCE S. HARVEY
ATTORNEYS FOR CLAIMANTS
Bruce S. Harvey, #335175
Jennifer Hanson, #001698
K. Julie Hojnacki, #434391
Kimberly Cornwell, #707515

146 Nassau Street
Atlanta, Georgia 30303
(404) 659-4628

CERTIFICATE OF SERVICE

This is to certify that I have this day served a copy of the within and foregoing pleading upon opposing counsel by facsimile transmission, hand delivery or by depositing a copy of same in the United States Mail with sufficient postage attached thereon, addressed as follows:

Michael Brown, AUSA
600 Richard Russell Building
75 Spring Street, SW
Atlanta, Georgia 30303

This 6th day of June, 2012.

s/Bruce S. Harvey
LAW OFFICE OF BRUCE S. HARVEY
ATTORNEYS FOR DEFENDANT
Bruce S. Harvey, #335175
Jennifer Hanson, #001698
K. Julie Hojnacki, #434391
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Atlanta, Georgia 30303
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